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<b>J.K., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket Nos. 19-1420 &amp;</b>
	)	<b>19-1422</b>
<b>U.S. POSTAL SERVICE, LOGISTICS &amp;</b>	)	<b>Issued: August 12, 2020</b>
<b>DISTRIBUTION CENTER, Kearny, NJ,</b>	)	
<b>Employer</b>	)	
	)	

*Case Submitted on the Record*

Before:  
CHRISTOPHER J. GODFREY, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge

On June 10, 2019 appellant, filed a timely appeal from January 11 and April 16, 2019 merit decisions and a February 27, 2019 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.<sup>2</sup>

The issues are: (1) whether appellant has met her burden of proof to establish more than 11 percent permanent impairment of her right upper extremity, for which she previously received a schedule award; (2) whether OWCP properly denied appellant's February 5, 2019 request for

<sup>2</sup> The Board notes that following the April 16, 2019 OWCP decision and on appeal, appellant submitted additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

reconsideration of the merits of her schedule award claim pursuant to 5 U.S.C. § 8128(a); and (3) whether OWCP abused its discretion in approving a fee in the amount of \$2,500.00 for 16.7 hours of services rendered by her former counsel from March 9, 2007 through November 20, 2009.

### **FACTUAL HISTORY**

This case had previously been before the Board.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On or before July 6, 2007<sup>4</sup> appellant, then a 37-year-old temporary employee, filed an occupational disease claim (Form CA-2) alleging that, due to factors of her federal employment, including repetitive lifting and upper extremity motions handling mail, caused a cervical spine condition. She stopped work at the employing establishment on January 2, 2006 and did not return.

On March 9, 2007 appellant authorized James D. Muirhead, Esq. to represent her in all matters arising out of her federal workers' compensation claim.

On August 20, 2007 OWCP accepted the claim for cervical spondylosis with myelopathy.<sup>5</sup> Appellant claimed wage-loss compensation commencing January 2, 2006.

On June 12, 2008 appellant filed a notice of recurrence (Form CA-2a) claiming disability commencing January 15, 2008, asserting that she had temporarily aggravated the accepted condition when she reached for an item on a high shelf while performing private sector job duties. In support of the recurrence claim, counsel submitted a November 6, 2009 letter and medical evidence in support of the renewed disability.

By decision dated February 3, 2010, OWCP denied appellant's claim for wage-loss compensation commencing January 2, 2006, denied a recurrence of disability commencing January 15, 2008, and found that the January 15, 2008 incident constituted an intervening injury, breaking the legal chain of causation from the accepted condition.

Appellant, through counsel, requested reconsideration on March 1, 2010. OWCP denied reconsideration by decision dated April 22, 2010.

Appellant, through counsel, appealed the February 3 and April 22, 2010 decisions to Board.

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<sup>3</sup> Docket No. 10-1780 (issued May 11, 2011).

<sup>4</sup> The date of appellant's signature on the Form CA-2 is illegible. Appellant's supervisor signed the reverse side of the form on July 6, 2007.

<sup>5</sup> On October 26, 2007 appellant filed a claim for a schedule award (Form CA-7). By decision dated January 29, 2008, OWCP denied his schedule award claim as she had not submitted medical evidence indicating that the accepted condition had attained maximum medical improvement (MMI).

By decision issued May 11, 2011,<sup>6</sup> the Board set aside OWCP's February 3, 2010 with regard to whether there had been an intervening cause of disability, but otherwise affirmed the February 3, 2010 decision. The Board also affirmed OWCP's April 22, 2010 nonmerit decision.

On July 11, 2014 appellant filed a claim for a schedule award (Form CA-7). In support of her request, counsel submitted a March 19, 2014 impairment rating by Dr. Nicholas Diamond, an osteopath Board-certified in physical medicine and rehabilitation.<sup>7</sup> Appellant completed a Pain Disability Questionnaire (PDQ) questionnaire, scored at 107. Dr. Diamond performed a physical examination and referenced the sixth edition of the A.M.A., *Guides* and *The Guides Newsletter*, *Rating Spinal Nerve Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*) as the method for determining impairment. He indicated that MMI had been reached as of March 19, 2014. Referring to Table 1 of *The Guides Newsletter*, Dr. Diamond found a class of diagnosis (CDX) of 1 for moderate sensory deficit in the right C6 nerve root, with a default value of three percent. He noted a grade modifier for functional history (GMFH) of 3 for the PDQ score of 107, and a grade modifier for clinical studies (GMCS) of 3 for the March 20, 2006 magnetic resonance imaging result.<sup>8</sup> Applying the net adjustment formula of (GMFH - CDX) + (GMCS - CDX), or (3-1) + (3-1), resulted in a net adjustment of 4, raising the default 3 percent CDX value upward to 5 percent. Regarding the right C7 and C8 nerve roots, Dr. Diamond found a CDX of two percent for moderate sensory deficit. He applied the identical grade modifiers as for the C6 nerve root, resulting in a net adjustment of 4, adjusting the default two percent impairment upward to three percent. Dr. Diamond combined the 5, 3, and 3 percent impairments to find 11 percent permanent impairment of the right upper extremity.

OWCP routed Dr. Diamond's March 19, 2014 report, a statement of accepted facts (SOAF), and the case file to Dr. Henry J. Magliato, a Board-certified orthopedic surgeon serving as a district medical adviser (DMA), for review as to the appropriate percentage of permanent impairment.

In an August 12, 2014 report, Dr. Magliato concurred with Dr. Diamond's impairment rating and method of calculation. He agreed that appellant had attained MMI as of March 19, 2014.

By decision dated January 11, 2019, OWCP granted appellant a schedule award for 11 percent permanent impairment of the right upper extremity, or 34.32 weeks of compensation which ran from March 19 to November 14, 2014.

In a January 26, 2019 letter, appellant contended that then-counsel had not been helpful to her and failed to keep her apprised of developments in her schedule award claim.

On February 4, 2019 OWCP received then-counsel's fee application in the discounted amount of \$2,500.00 for 16.7 hours of services rendered from March 9, 2007 through November 20, 2009. Counsel advised appellant on January 20, 2019 that he had not billed for

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<sup>6</sup> *Supra* note 3.

<sup>7</sup> The record reflects that counsel provided information regarding appellant's pay rate and filed ten letters pertaining to the status of the schedule award claim prior to its issuance.

<sup>8</sup> No grade modifier for physical examination (GMPE) was noted.

services rendered from 2010 to 2019, as the total amount charged would have greatly exceeded \$2,500.00 and her schedule award was only \$10,810.80. An itemized statement listing the services and time spent on each date was provided.

On February 5, 2019 appellant requested reconsideration of the January 11, 2019 schedule award decision contending that the award was too low considering the severity of her ongoing symptoms. In a February 6, 2019 letter, he contended that she had developed arthritis in her right upper extremity and remained under medical care.

In a February 11, 2019 letter, OWCP forwarded to appellant a copy of the fee application. It afforded her 30 days to comment on the fee application and to denote whether the fee charged was reasonable and appropriate.

In response, appellant submitted letters dated February 6 and March 1, 2019, contending that her member of Congress had assisted her in obtaining her schedule award as her former counsel had not been helpful.

By decision dated February 27, 2019, OWCP denied appellant's request for reconsideration of the January 11, 2019 schedule award as she had not clearly identified the reasons for her request or provided relevant and pertinent new evidence.

By decision dated March 11, 2019, OWCP approved her former counsel's fee petition in the amount of \$2,500.00 for services rendered from March 9, 2007 through 2019.

On March 27, 2019 appellant requested reconsideration of OWCP's March 11, 2019 decision. She provided a March 21, 2019 statement noting that her former counsel's billing statement had included charges for reviewing correspondence she had sent to him regarding her claim and for telephone conversations with her. Appellant reiterated that she had sought help from her member of Congress in obtaining her schedule award.

By decision dated April 16, 2019, OWCP denied appellant's request for reconsideration of the merits the March 11, 2019 fee decision.

### **LEGAL PRECEDENT -- ISSUE 1**

The schedule award provisions of FECA,<sup>9</sup> and its implementing federal regulations,<sup>10</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, FECA does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified

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<sup>9</sup> *Supra* note 2.

<sup>10</sup> 20 C.F.R. § 10.404.

edition of the A.M.A., *Guides*, published in 2009.<sup>11</sup> The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.<sup>12</sup>

It is the claimant's burden of proof to establish permanent impairment of a scheduled member or function of the body as a result of an employment injury.<sup>13</sup> OWCP's procedures provide that, to support a schedule award, the file must contain competent medical evidence which shows that the impairment has reached a permanent and fixed state and indicates the date on which this occurred, describes the impairment in sufficient detail so that it can be visualized on review, and computes the percentage of impairment in accordance with the A.M.A., *Guides*.<sup>14</sup>

Neither FECA nor its implementing regulations provide for a schedule award for impairment to the back or to the body as a whole.<sup>15</sup> Furthermore, the back is specifically excluded from the definition of organ under FECA.<sup>16</sup> The sixth edition of the A.M.A., *Guides* does not provide a separate mechanism for rating spinal nerve injuries as impairments of the extremities. Recognizing that FECA allows ratings for extremities and precludes ratings for the spine, *The Guides Newsletter* offers an approach to rating spinal nerve impairments consistent with sixth edition methodology. For peripheral nerve impairments to the upper or lower extremities resulting from spinal injuries, OWCP's procedures indicate that *The Guides Newsletter* is to be applied.<sup>17</sup> The Board has recognized the adoption of this methodology for rating extremity impairment, including the use of *The Guides Newsletter*, as proper in order to provide a uniform standard applicable to each claimant for a schedule award for extremity impairment originating in the spine.<sup>18</sup>

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<sup>11</sup> For decisions issued after May 1, 2009 the sixth edition of the A.M.A., *Guides* is used. A.M.A., *Guides* (6<sup>th</sup> ed. 2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.5(a) (March 2017); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

<sup>12</sup> *See K.J.*, Docket No. 19-1492 (issued February 26, 2020); *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

<sup>13</sup> *See T.H.*, Docket No. 19-1066 (issued January 29, 2020); *D.F.*, Docket No. 18-1337 (issued February 11, 2019); *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>14</sup> *Supra* note 7; *see also B.J.*, Docket No. 19-0960 (issued October 7, 2019).

<sup>15</sup> *K.Y.*, Docket No. 18-0730 (issued August 21, 2019); *L.L.*, Docket No. 19-0214 (issued May 23, 2019); *N.D.*, 59 ECAB 344 (2008); *Tania R. Keka*, 55 ECAB 354 (2004).

<sup>16</sup> *See* 5 U.S.C. § 8101(19); *see also G.S.*, Docket No. 18-0827 (issued May 1, 2019); *Francesco C. Veneziani*, 48 ECAB 572 (1997).

<sup>17</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 3.700 (January 2010). *The Guides Newsletter* is included as Exhibit 4.

<sup>18</sup> *D.D.*, Docket No. 19-1676 (issued July 29, 2020); *E.D.*, Docket No. 13-2024 (issued April 24, 2014); *D.S.*, Docket No. 13-2011 (issued February 18, 2014).

The claimant has the burden of proof to establish that the condition for which a schedule award is sought, is causally related to his or her federal employment.<sup>19</sup>

The standards for evaluation of permanent impairment of an extremity under the A.M.A., *Guides* are based on all factors that prevent a limb from functioning normally, such as pain, sensory deficit, and loss of strength.<sup>20</sup> Also, it is axiomatic that in determining entitlement to a schedule award, preexisting impairment to the scheduled member is to be included.<sup>21</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has not met her burden of proof to establish more than 11 percent permanent impairment of her right upper extremity, for which she previously received a schedule award.

Appellant submitted a March 19, 2014 report from Dr. Diamond to support her schedule award claim. Dr. Diamond opined that appellant had sustained 11 percent permanent impairment of the right upper extremity due to moderate sensory deficit of the right C4, C5, and C6 nerve roots.

OWCP properly referred the evidence of record to a DMA, Dr. Magliato. In his August 12, 2014 report, the DMA concurred with Dr. Diamond's impairment rating and application of the A.M.A., *Guides* and *The Guides Newsletter*.

The Board finds that the DMA applied the appropriate tables and grading schemes of *The Guides Newsletter* to Dr. Diamond's clinical findings. The DMA concluded that appellant had 11 percent permanent impairment of the right upper extremity due to moderate sensory deficits of the right C4, C5, and C6 nerve roots. His calculations were mathematically accurate and in accord with the impairment findings of Dr. Diamond. There is no medical evidence of record utilizing the appropriate tables of *The Guides Newsletter* demonstrating a greater percentage of permanent impairment. Therefore, OWCP properly found 11 percent permanent impairment of appellant's right upper extremity.

There is no probative medical evidence of record, in conformance with the sixth edition of the A.M.A., *Guides*, establishing that appellant has greater permanent impairment of her right upper extremity than that previously awarded. Accordingly, appellant has not established that she is entitled to additional schedule award compensation.

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<sup>19</sup> *G.S.*, *supra* note 16; *Veronica Williams*, 56 ECAB 367 (2005).

<sup>20</sup> *C.H.*, 17-1065 (issued December 14, 2017); *E.B.*, Docket No. 10-0670 (issued October 5, 2010); *Robert V. Disalvatore*, 54 ECAB 351 (2003); *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>21</sup> *C.H.*, *id.*; *C.K.*, Docket No. 16-1294 (issued January 13, 2017); *P.W.*, Docket No. 16-0684 (issued October 3, 2016); *J.C.*, Docket No. 15-1780 (issued March 17, 2016); *Peter C. Belkind*, 56 ECAB 580 (2005).

On appeal appellant contends that the severity of her continuing condition entitles her to an increased schedule award. As noted above, her lay opinion is insufficient to overcome the well-rationalized medical opinions of Dr. Diamond and the DMA on issue of permanent impairment.

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his own motion or on application.<sup>22</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>23</sup>

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>24</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>25</sup> If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>26</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

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<sup>22</sup> 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>23</sup> 20 C.F.R. § 10.606(b)(3); *see L.D.*, *id.*; *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>24</sup> 20 C.F.R. § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2016). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

<sup>25</sup> *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

<sup>26</sup> *Id.* at § 10.608(b); *D.L.*, Docket No. 18-0449 (issued October 23, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

Appellant, on reconsideration, neither alleged nor demonstrated that OWCP erroneously applied or interpreted a specific point of law. Additionally, she did not advance any relevant legal arguments not previously considered by OWCP. The Board thus finds that appellant is not entitled to a review of the merits based on the first or second requirements under 20 C.F.R. § 10.606(b)(3).<sup>27</sup>

Appellant also failed to submit relevant and pertinent new evidence with the February 5, 2019 request for reconsideration. Her letters dated February 5 and 6, 2019 contended that the severity of her ongoing condition warranted an additional schedule award. A lay opinion, however, is not relevant medical evidence sufficient to warrant a higher rating of permanent impairment. It is appellant's burden to submit sufficient medical evidence to establish the extent of permanent impairment.<sup>28</sup> As her February 5 and 6, 2019 letters are irrelevant to the underlying issue of permanent impairment, appellant is not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).

The Board accordingly finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.<sup>29</sup>

### **LEGAL PRECEDENT -- ISSUE 3**

It is not the function of the Board to determine the fee for services performed by a representative of a claimant before OWCP. That function is within the discretion of OWCP based on the criteria set forth in Title 20 of the Code of Federal Regulations and mandated by Board decisions. The sole function of the Board on appeal is to determine whether the action of OWCP constituted an abuse of discretion.<sup>30</sup> Generally, an abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts.<sup>31</sup>

Section 10.703(a)(2) of the Code of Federal Regulations provides in pertinent part that a representative must submit a fee application, which includes a statement of agreement or disagreement with the amount charged, signed by the claimant.<sup>32</sup>

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<sup>27</sup> *Id.* at § 10.606(b)(3)(i) and (ii).

<sup>28</sup> See *Annette M. Dent*, 44 ECAB 403 (1993).

<sup>29</sup> *D.L.*, *supra* note 26; *A.F.*, Docket No. 18-1154 (issued January 17, 2019); see *A.R.*, Docket No. 16-1416 (issued April 10, 2017); *A.M.*, Docket No. 16-0499 (issued June 28, 2016); *A.K.*, Docket No. 09-2032 (issued August 3, 2010); *M.E.*, 58 ECAB 694 (2007); *Susan A. Filkins*, 57 ECAB 630 (2006) (when a request for reconsideration does not meet at least one of the three requirements enumerated under 20 C.F.R. § 10.606(b), OWCP will deny the request without reopening the case for a review on the merits).

<sup>30</sup> See *T.S.*, Docket No. 17-1706 (issued July 10, 2018); *Alvin T. Groner, Jr.*, 47 ECAB 588 (1996); *Edward Snider*, 39 ECAB 1268 (1988).

<sup>31</sup> See *R.P.*, Docket No. 18-0681 (issued November 1, 2018); *Claudio Vazquez*, 52 ECAB 496 (2001); *Daniel J. Perea*, 42 ECAB 214, 221 (1990).

<sup>32</sup> 20 C.F.R. § 10.703(a)(2).



When a fee application has been disputed, OWCP is required to provide the claimant with a copy of the fee application and request the submission of further information in support of any objection.<sup>33</sup> After the claimant has been afforded a reasonable time to respond to the request, OWCP will then proceed to review the fee application.

Pursuant to section 10.703(c), when a fee is in dispute, OWCP will determine whether the amount of the fee is substantially in excess of the value of services received by looking at the following factors: (i) usefulness of the representative's services; (ii) the nature and complexity of the claim; (iii) the actual time spent on development and presentation of the claim; and (iv) customary local charges for similar services.<sup>34</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP has not abused its discretion in approving the fee in the amount of \$2,500.00 for 16.7 hours of services rendered by appellant's former counsel from March 9, 2007 through November 20, 2009.

OWCP approved the former counsel's fee request of \$2,500.00 for services rendered from March 9, 2007 through November 20, 2009.

OWCP reviewed the four factors under 20 C.F.R. § 10.703(c) and noted that appellant merely submitted unsubstantiated assertions that her former counsel had not been effective in his representation. It also noted that she had not submitted evidence to support her contention that the fees charged were unreasonable. OWCP indicated that her former counsel had voluntarily reduced his fees, based upon the schedule award recovery, to ensure reasonableness. The Board notes that appellant's former counsel was involved in filing appellant's recurrence and schedule award claims and he submitted supportive medical evidence. Appellant also had regular communications with her former counsel for which he was entitled to compensation. Having reviewed the evidence, the Board does not find an abuse of discretion by OWCP.

The Board has frequently held that it will not interfere with or set aside a determination by OWCP of a fee for legal services unless the determination is clearly in error.<sup>35</sup> OWCP has the discretion to approve attorney fees, and in this case, the Board finds no abuse of discretion.<sup>36</sup> Therefore the March 11, 2019 decision approving the attorney fee of \$2,500.00 is affirmed.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish more than 11 percent permanent impairment of her right upper extremity, for which she previously received a schedule award. The Board further finds that OWCP properly denied her February 5, 2019 request

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<sup>33</sup> 20 C.F.R. § 10.703(c).

<sup>34</sup> *Id.*

<sup>35</sup> *R.P.*, Docket No. 18-0681 (issued November 1, 2018); *William Arthur Burney*, 29 ECAB 253 (1978).

<sup>36</sup> *C.H.*, Docket No. 17-0623 (issued June 27, 2017); *W.H.*, Docket No. 16-1297 (issued May 9, 2017); *L.H.*, Docket No. 11-0900 (issued December 6, 2011); *C.H.*, Docket No. 10-0987 (issued March 22, 2011); *Eric B. Petersen*, 57 ECAB 680 (2006); *Sharon Edwards*, 56 ECAB 749 (2005).

for reconsideration of the merits of her schedule award claim pursuant to 5 U.S.C. § 8128(a). Finally, the Board further finds that OWCP has not abused its discretion in approving a fee in the amount of \$2,500.00 for 16.7 hours of services rendered by her former counsel from March 9, 2007 through November 20, 2009.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 16, February 27, and January 11, 2019 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 12, 2020  
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board